

IDP protection at the national level in South Asia

by Paula Banerjee

South Asia is one of the most conflict-prone regions in the world and internal displacement is a fact of life. Governments have been loath to acknowledge IDP issues but is change afoot?

Discrimination against minorities, religious and ethnic hatred, state repression, demands for self-determination, famines, floods and ill-conceived development projects have contributed to massive internal displacement in South Asia. For the most part victims are unable to cross borders and are forced to live within a regime that created the occasion for their displacement in the first place.

Tsunami-displaced family, Sri Lanka.

All South Asian states consider internal displacement to be an internal matter. National policies emphasise welfare and do not recognise the rights set out in the Guiding Principles. There is little acknowledgement that IDPs are citizens

– with the concomitant entitlements that citizenship brings. In no state in South Asia is land recognised as a fundamental right, thus making it very easy to displace people. Policies which were intended to be pro-poor today work in favour of the rich and the powerful.

Policymakers and the general public only became aware of the extent of internal displacement in South Asia in the 1990s. As internal displacement accelerated, governments across South Asia established national human rights commissions but their mandates were limited. Impetus to address IDP issues was provided by a two-year research project – supported by Robert Cohen and the Brookings Project on Internal Displacement – which helped regional scholars and

activists to expand their knowledge of displacement in order to promote better policies and programmes for vulnerable displaced groups. Research drew attention to the increased vulnerabilities of displaced communities, especially religious and ethnic minorities, lower caste people,



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women and children. It became clear that very few people could access any form of compensation or other assistance. Women were particularly marginalised, finding it virtually impossible to access resettlement aid in their own names.

India, Nepal and Sri Lanka have tried to develop national IDP mechanisms. However, policies are not sensitive to the needs of all the disadvantaged sections of the population and often selectively benefit favoured groups of IDPs.

India

Ever since independence in 1947 the Indian state has been committed to an ideology of ‘development’

and ‘modernisation’ which has led to state-led construction of dams, transport links and urban infrastructure. So strong was national consensus that protests against the large number of dams build in the first four decades of independence were rare. Prime Minister Jawaharlal Nehru’s comment that dams were the “temples of modern India” gave legitimacy to the paradigm of ‘development’. When discontent was expressed the Congress Party quickly co-opted protest leaders. It was only

with the Narmada Valley Project¹ that the first serious popular opposition to development-induced displacement began. Soon agitations spread to urban renewal schemes, highway making, steel plants, mining and the ecological ravages of the prawn industry.

Significant numbers of Indians have also been displaced by conflict. Lack of regional or national

mechanisms has meant that different groups of IDPs are treated differently according to which Indian state they live in and their caste/ethnic status. Kashmiri Pundits – the estimated 350,000 Hindus displaced as a result of the ongoing conflict in the Kashmir Valley – receive assistance of around \$40/month while the 300,000 IDPs displaced in northeastern India – including Santhals and members of other adivasi (‘scheduled/tribal’) communities – get almost nothing. Many continue to live in makeshift camps, unable to access health and education services, effectively abandoned by the government. Adivasis – around 7.5% of India’s population – are a disproportionate segment of India’s IDP population. They make up 40%

of the estimated 33 million people displaced by development projects.

Discussion of a draft IDP policy continued for two decades and it was only in 2004 that a National Rehabilitation Policy for Project Affected Families (NPRR)² was passed with minimal debate. NPRR only applies to those displaced due to development projects and is primarily meant to safeguard the interests of resource-poor landless agricultural labourers, forest dwellers, artisans and adivasi groups. The NPRR should safeguard adivasis from arbitrary displacement but has no provisions to consult them.

The NPRR is almost gender blind. It makes no provisions for adult daughters of the family to be compensated for displacement on an equal basis with the adult sons, as it wrongly assumes that adult women are married and thus no longer part of their natal family. This follows the pattern set by Narmada Waters Dispute Tribunal Award of 1979 that makes men the sole recipient for compensation and rehabilitation. This has had heinous effects on women in general and female-headed households in particular. There are cases where men run away with the cash that they receive as compensation and women are left to look after the family in a state of utter penury.

The NPRR has other grave shortcomings:

- Financial assistance is restricted to the equivalent of a minimum wage for 625 days: families below the poverty line would much rather have jobs than receive once-off allowances.
- Cash compensation is inappropriate for people who may have had little experience of the market economy and thus unwisely use cash made available.
- There is little safeguard against corrupt officials.
- Provisions for project-affected people to participate in grievance procedures are extremely restrictive.

- NPRR has no provisions regarding multiple displacement although field evidence shows most IDPs suffer from multiple displacements.
- NPRR procedures are only activated when a set number of people are displaced – at least 500 families in lowland and 250 families in highland areas. Civil servants are tempted to under-enumerate in order to avoid liability to pay compensation.

The gravest failure of the NPRR is that it only applies to a sub-group of India's IDP population and ignores those displaced by conflict and/or natural disasters.

Sri Lanka

By 1995 the number of people internally displaced by the Tamil-Sinhalese conflict in Sri Lanka had topped a million. A ceasefire in 2002 saw the number of IDPs decline but the tsunami on 26 December 2004 and the resumption of hostilities between the Sri Lankan government and the Liberation Tigers of Tamil Elam (LTTE) have led to new displacement. The Internal Displacement Monitoring Centre (IDMC)³ estimates that 200,000 people have been displaced since January 2006 and that IDP numbers are again in excess of half a million.

Throughout the conflict no ministry has had overall responsibility for IDP welfare and there are no comprehensive policies or guidelines on displacement. A range of departments, ministries and aid agencies have taken responsibility for relief, protection and assistance. Allocation of ministerial areas of responsibility appears driven by political and electoral considerations. Administrative practices have been subject to whimsical changes and food entitlements have often been arbitrarily cut. Decisions taken at ministerial level in Colombo have been ignored by local army commanders.

In June 2002 the government adopted a National Framework for Relief, Rehabilitation and Reconciliation (Triple R)⁴, to provide a common strategy for

needs assessment, planning and delivery of assistance. The Triple R Framework adopted the Guiding Principles on Internal Displacement as official policy for assisting IDPs affected by the conflict and required ministries to bring their policies and programmes into alignment with these principles. However, as conflict resumes, political calculations are again taking precedence over humanitarian considerations.

Displaced tsunami survivors have been more successful in accessing resources. Houses, albeit of poor quality, were built in record time and compensation payments made. Conflict-affected IDPs were upset by the differential treatment, especially as their monthly food rations were less than those given to tsunami survivors. UNHCR officials are aware of discrepancy of provision but there is little they can do. Tough times lie ahead for Sri Lanka's war-affected IDPs.

Nepal

It is estimated that up to 200,000 people have been internally displaced in Nepal by ten years of war, which has claimed more than 13,000 lives and affected all districts of the country. The war has also thrown hundreds of thousands of people onto the road to India – a traditional migration route for Nepalese.

The government announced policies for IDPs in 1999 and made local civil servants responsible for registering displaced people. However, hardly any did so. No accurate displacement figures are available since movements have not been monitored and no comprehensive registration has taken place. As a consequence of a biased governmental IDP definition, the majority of IDPs have been excluded from assistance and the 'IDP' term has become a pejorative label designating a small group of displaced closely linked to the state. This makes future registrations as well as assessments of the scope of displacement very difficult. Hardly any IDPs have returned home, despite the ceasefire and conclusion of a peace agreement in November 2006.

Plans to provide fertilisers, seeds, health care, food for work, security

and temporary shelter have been half-hearted. Only a small number of IDPs have received a promised daily allowance and then only for a limited period. IDPs who found their way to Kathmandu, the capital, have not been given any assistance. As is often the case in situations of internal displacement, many IDPs in Nepal have lost their documents during the course of their flight, a major obstacle to their integration in urban areas. UNICEF reports that some IDP children are being denied an education because they lack proper documentation or because they need to contribute financially to the survival of their family. IDPs displaced by the Maoist rebels have found it easier to access assistance than those displaced by the Nepalese army. IDMC notes that continued human rights abuses by the Maoists – killings, abductions and torture – prevent large-scale return movements. These are also hampered by the absence of government representatives at the village level, these having been

displaced themselves, as well as by the lack of a government return plan.

The way forward

South Asia needs a paradigm shift. Programmes for rehabilitation and care for IDPs must fall within the framework of rights and justice, not those of humanitarian needs and welfare. Governments have to recognise that they cannot give aid to one group of IDPs and deny it to others. They need to acknowledge the reality that the bulk of conflict- or development-induced IDPs are adivasi, lower caste, rural and urban poor and/or women.

Although national policies on IDPs are flawed, it must be acknowledged that governments are belatedly developing IDP policies as a result of popular activism, research and the work of national human rights commissions. These are moves in the right direction. In West Bengal, a self-avowed leftist state in India, recent activism by potential IDPs

and civil society partners has forced the state government to rethink the process of acquiring agricultural land for industry and to engage in dialogue with the people who are to be displaced concerning compensation for lost land.

Unless the situation of IDPs is addressed and justice achieved, there will be no lasting peace in South Asia.

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1. See www.narmada.org and R Oleschak. 'Sardar Sarovar injustices', FMR 26, www.fmreview.org/FMRpdfs/FMR26/FMR2638.pdf
2. www.dolr.nic.in/Hyperlink/LRC-status/npr_2003.htm
3. www.internal-displacement.org
4. www.erd.gov.lk/publicweb/RRR2002/chapters1-6.doc